

Chief Magistrate Judge Brian A. Tsuchida

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

McKENNA DANILO BERNARDO,

Defendants.

NO. MJ20-226

COMPLAINT for VIOLATION

18 U.S.C. § 2252(a)(4)(B), (b)(2)

BEFORE the Honorable Brian A. Tsuchida, Chief United States Magistrate Judge,
United States Courthouse, Seattle, Washington.

The undersigned complainant being duly sworn states:

COUNT 1

(Possession of Child Pornography)

Beginning on a date unknown and continuing until February 11, 2020, at Burien,
within the Western District of Washington, and elsewhere, the Defendant, McKENNA
DANILO BERNARDO did knowingly possess matter that contained visual depictions,
the production of which involved the use of minors engaging in sexually explicit conduct,
and the visual depictions were of such conduct, that had been mailed and shipped and
transported in and affecting interstate and foreign commerce by any means, including by
computer, and which had been produced using materials that had been mailed and
shipped and transported in and affecting interstate and foreign commerce by any means,

1 including by computer, and the images of child pornography involved include images of
2 a prepubescent minor and a minor who had not attained 12 years of age.

3 All in violation of Title 18, United States Code, Section 2252(a)(4)(B), (b)(2).

4 And the Complainant states that this Complaint is based on the following
5 information:

6 I, Curtis Crowder, being first duly sworn on oath, depose and say:

7 **INTRODUCTION**

8 1. I am a Special Agent (“SA”) with the Department of Homeland Security
9 (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”), Homeland Security
10 Investigations (“HSI”). I have held such a position since 2003. HSI is responsible for
11 enforcing the customs and immigration laws and federal criminal statutes of the United
12 States. I am currently assigned to the Office of the Special Agent in Charge (“SAC”),
13 Seattle, Washington, and am a member of the Child Exploitation Investigations Group.
14 As part of my current duties, I investigate criminal violations relating to child
15 exploitation and child pornography, including violations pertaining to the illegal
16 production, distribution, receipt, and possession of child pornography and material
17 involving the sexual exploitation of minors in violation of 18 U.S.C. §§ 2251, 2252, and
18 2252A. I have received training in investigating child pornography and child exploitation
19 crimes. I have also had the opportunity to observe and review examples of child
20 pornography (as defined in 18 U.S.C. § 2256(8)). I am a member of the Seattle Internet
21 Crimes Against Children Task Force (“ICAC”), and work with other federal, state, and
22 local law enforcement personnel in the investigation and prosecution of crimes involving
23 the sexual exploitation of children.

24 2. As part of my duties as an HSI Criminal Investigator, I investigate criminal
25 violations relating to child exploitation and child pornography including violations of
26 Title 18, United States Code, Sections 2251(a), 2252(a)(2), 2252(a)(4)(B), and
27 2243(a)(1). I have received training in the area of child pornography and child
28 exploitation, and have observed and reviewed numerous examples of child pornography

1 in various forms of media, including media stored on digital media storage devices such
2 as computers, tablets, cellphones, etc. I have also participated in the execution of
3 numerous search warrants involving investigations of child exploitation and/or child
4 pornography offenses. I am a member of the Seattle Internet Crimes Against Children
5 (ICAC) Task Force in the Western District of Washington, and work with other federal,
6 state, and local law enforcement personnel in the investigation and prosecution of crimes
7 involving the sexual exploitation of children.

8 3. The facts set forth in this Complaint are based on my own personal
9 knowledge; knowledge obtained from other individuals during my participation in this
10 investigation, including other law enforcement officers; interviews of cooperating
11 witnesses; review of documents and records related to this investigation; communications
12 with others who have personal knowledge of the events and circumstances described
13 herein; and information gained through my training and experience.

14 4. Because this Complaint is submitted for the limited purpose of establishing
15 probable cause, it does not set forth each and every fact that I or others have learned
16 during the course of this investigation. I have set forth only the facts that I believe are
17 necessary to establish probable cause to believe that McKENNA DANILO BERNARDO
18 committed the offense charged, namely, Possession of Child Pornography in violation of
19 18 U.S.C. § 2252(a)(4)(B), (b)(2).

20 SUMMARY OF PROBABLE CAUSE

21 5. On or about January 4, 2019, McKENNA DANILO BERNARDO was
22 sentenced in King County Superior Court of Washington to 14 months in prison, with 36
23 months supervision monitored by the Washington State Department of Corrections
24 (hereafter DOC), after being convicted of One Count of Possession of Depictions of
25 Minors Engaged in Sexually Explicit Conduct 1st Degree, RCW 9.68A. 070. Pursuant to
26 the terms of the Judgment and Sentence, McKENNA DANILO BERNARDO was
27 required to comply with the following conditions: to obtain a sexual deviancy evaluation
28 by a state certified provider and follow all recommendations; to submit to polygraph

1 examinations as determined by his Community Corrections Officer (hereafter CCO); and
2 was prohibited from possessing devices with internet connectivity absent approval from
3 his CCO and installation of monitoring software. Additionally, McKENNA DANILO
4 BERNARDO was subject to other conditions “imposed by the Court or Department
5 during community custody.”

6 6. On February 16, 2019, McKENNA DANILO BERNARDO began
7 supervision by the Department of Corrections (DOC) following his release from prison.
8 In addition to the conditions imposed in the Judgment and Sentence, DOC imposed
9 conditions of supervision in an “Offender Condition Statement” that again prohibited
10 McKENNA DANILO BERNARDO from possessing unapproved electronic devices and
11 accessing the internet or email by electronic devices without CCO approval. In addition
12 to other conditions, McKENNA DANILO BERNARDO was specifically prohibited from
13 possessing or perusing pornographic materials unless authorized by his CCO and was
14 required to “submit to a search of your person, residence, vehicle, and possessions
15 whenever requested by a CCO.”

16 7. On February 27, 2020, I received reports from King County Sheriff’s
17 Office (KCSO) Detective Benjamin Blakeman pertaining to DOC Incident Number,
18 C20005479, authored by DOC Community Corrections Officer (CCO) Donald Neyhart
19 and CCO Olivia Timothy. CCO Neyhart and CCO Timothy’s reports summarized a
20 February 11, 2020, home visit at McKENNA DANILO BERNARDO’s residence located
21 in Burien, Washington. During a walk-through of the residence, CCO Neyhart and CCO
22 Timothy observed an unauthorized iPad in the garage and an unauthorized SanDisk
23 Memory Card inside the residence. McKENNA DANILO BERNARDO initially denied
24 the iPad belonged to him, but eventually admitted to owning the iPad and provided the
25 passcode.

26 8. Following the advisement and waiver of his Constitutional rights,
27 McKENNA DANILO BERNARDO admitted to CCO Neyhart and CCO Timothy that
28 “pre-teen, prepubescent,” “child pornography,” and “depictions of minors” were stored

1 on the iPad. McKENNA DANILO BERNARDO confirmed the presence of videos
2 depicting the penetration of minors would be recovered from his iPad. McKENNA
3 DANILO BERNARDO confessed to utilizing the incognito setting of his internet
4 browser to locate "child pornography" files and to accessing "Cam Teens, a foreign site"
5 and the website "Reddit" in order to locate "child pornography" files.

6 9. Using the passcode provided by McKENNA DANILO BERNARDO,
7 CCO's Neyhart and Timothy accessed the iPad and files of "multiple young preteen girls
8 who were nude, masturbating, and in sexual display" were found on the device. A title of
9 one of the files was "shy naked teen."

10 10. CCO Neyhart and CCO Timothy arrested McKENNA DANILO
11 BERNARDO for violating the conditions of the Judgment and Sentence by possessing
12 unapproved devices/media and possessing files depicting minors engaged in sexually
13 explicit conduct. The following devices were seized: (1) one Apple iPad, serial number
14 F9FZD2LQMDG1; (2) one Apple iPhone; and (3) one SanDisk 16GB Memory Card.
15 These three items were stored as evidence at King County Sheriff's Office Precinct 4,
16 14905 6th Avenue SW, Burien, WA.

17 11. On February 14, 2020, KCSO Detective Blakeman obtained a King County
18 Superior Court search warrant from the Honorable Judge LeRoy McCullough for the
19 seized devices, to wit: (1) one Apple iPad, serial number F9FZD2LQMDG1; (2) one
20 Apple iPhone; and (3) one SanDisk 16GB Memory Card (hereafter "SUBJECT
21 DEVICES"). Detective Blakeman collected the SUBJECT DEVICES from the evidence
22 room and delivered them to KCSO's Detective Do at KCSO Digital Forensics Unit
23 Secure Lab for forensic analysis.

24 12. On February 19, 2020, Detective Do completed a forensic analysis of the
25 SUBJECT DEVICES. Detective Do observed the iPad was registered with Apple ID
26 mckennabernardo159@gmail.com and the device name was listed as "Mckenna's iPad."
27 Approximately 116 video files of child pornography were found on the iPad. 115 of the
28

1 files shared the same file name scheme, "#####_shy_innocent_jbs_nude_bating_aak.avi"
 2 where the##### are integers or numbers.

3 13. Detective Do provided the following descriptions for three of the videos:

4 **i. Video file titled: 0932 shy_innocent_jbs_nude_bating_aak.avi**

5 This 74 seconds video clip depicts a female child with a camera facing her
 6 as she lays back and spreads her legs to expose her vagina. The video is set to music as
 7 the child masturbates. The child is depicted staring at the camera as she inserts her right
 8 index finger into her vagina. The camera is propped in front of her spread legs and
 9 vagina. The child does have developing pubic hair and given her facial features, body
 frame and developing breasts, her age is approximate in the pre-teen years.

10 **ii. Video file titled: 0523_shy_innocent_jbs_nude_bating_aak2.avi**

11 This video file depicts a blonde female child holding a camera with water
 12 running in the background. The child is depicted sitting and wearing a white sleeveless
 13 shirt. The camera pans down and the child is wearing gray colored sweat shorts with a
 14 white tie string. The white shirt has a koala bear imprint with the words "I am your gift."
 15 The camera pans to the child's groin where she is seen rubbing her vagina over her shorts
 16 with her left hand. The child then does a video selfie with a mirror and the reflection
 17 shows that she is in a bathroom and she is the camera person with a cell phone. The video
 18 progresses to show the child undressing and then posing to show her anus or vagina. At
 19 one point in the video, the child is seen inserting her right index finger into her vagina.
 20 The video jumps to a different scene where the child is in a bedroom setting but still
 21 wearing the same described clothes. The child is depicted with another young female
 22 child and the younger female child is now the camera person. The first child is then seen
 23 again in various stages of undressing, dancing and showing her vagina or anus to the
 24 camera. In another part of the video, the younger female child faces the camera and
 shows her breast. The children are speaking in a foreign language. The video is
 approximately 14 minutes and 40 seconds long. Based on the children' lack of breast
 development, body frame size and facial features, their age is approximately 8 to 10 years
 old.

25 **iii. Video file titled: VID-20170617-WA0001.mp4**

26 This video depicts a naked adult male laying on his back with an erect
 27 penis. He is depicted laying on a bed and the camera is propped at near the foot of the
 28 bed. The man looks possibly Hispanic. A petite female child is also depicted, naked
 except for a plaid skirt around her waist. The skirt is lifted up to reveal her buttocks as
 she straddles the man. Based upon the child's size and body frame, her approximate age is

1 between 5 to 8 years old. The child is depicted sitting on the man's erect penis and laying
2 on his chest. The adult and child then simulate sexual intercourse as the child is depicted
3 lying on top of the adult and his hands on her hip/buttocks. About a minute into the
4 video, the adult reverses the child's position and she is depicted facing the camera and
5 sitting on his erect penis. The small body frame, the lack of breast development and pubic
6 frame does confirm that her age is in the range of 5 to 8 years old. The child is depicted
7 lying on the adult's chest and his erect penis is depicted sliding up and down on the
8 child's vagina. The adult is then depicted thrusting his penis up and down to rub against
9 the child's vagina as she lays on her back on his chest. The adult then lays the child on
her stomach as he gets on top of her and simulates intercourse with her. This is a 2-
minute 14 seconds video.

10 14. Detective Blakeman viewed the three files described above and believed
11 each depicts a minor involved in sexually explicit conduct. I also reviewed the three files
12 described above and believe they meet the federal definition of child pornography as
13 defined in 18 U.S.C. § 2256(8).

14 15. On February 19, 2020, Detective Blakeman interviewed McKENNA
15 DANILO BERNARDO, while he was in custody at South Correctional Entity (SCORE)
16 in Des Moines, WA. McKENNA DANILO BERNARDO was advised of his
17 Constitutional Rights, which he waived, and agreed to answer Detective Blakeman's
18 questions. McKENNA DANILO BERNARDO admitted that he was aware of his
19 community custody supervision restrictions and knew he had obtained and used the iPad
20 in violation of his supervision conditions.

21 16. McKENNA DANILO BERNARDO admitted to downloading over 100
22 "child pornography" videos from a website called "camteens.to." He stated since
23 obtaining the iPad, he had downloaded so many files of "child pornography" that his iPad
24 storage space had reached full capacity, so he was forced to delete some files in order to
25 download more "child pornography."

26 17. McKENNA DANILO BERNARDO stated he knew he had committed a
27 crime by downloading and viewing sexually explicit videos depicting children. He
28

1 believed he would be caught eventually because he was scheduled to take a Polygraph
2 Exam in May of 2020, and he “knew that he would fail it.”

3 18. Based on my knowledge, training, and experience, and the knowledge,
4 training, and experience of other law enforcement officers I have consulted with, I know
5 that Apple devices are not produced or manufactured entirely within the state of
6 Washington.

7 **CONCLUSION**

8 19. Based on the above facts, I believe that there is probable cause to conclude
9 that McKENNA DANILO BERNARDO committed the offense charged in this
10 Complaint.

11 *Curtis Crowder*

12 CURTIS CROWDER, Complainant
13 Special Agent
14 Department of Homeland Security
15 Homeland Security Investigations

16 Based on the Complaint and Affidavit sworn to before me, and subscribed in my
17 presence, the Court hereby finds that there is probable cause to believe the Defendant
18 committed the offense set forth in the Complaint.

19 DATED this 30 day of April, 2020.

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21 
22 HON. BRIAN A. TSUCHIDA
23 Chief United States Magistrate Judge
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